NO.: PHA23871 T NO.: PHIL06-23871 131.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

MICHAEL S. PASIEKA

Serial No.

09/456,689

Filed

December 9, 1999

For

METHOD AND APPARATUS FOR REVOCATION LIST

**MANAGEMENT** 

Group No.

2136

Examiner

Pramila Parthasarathy

### **MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

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Date: April 22, 2022

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P.O. Drawer 800889 Dallas, Texas 75380 Phone: (972) 628-3600

Fax: (972) 628-3616

E-mail: wmunck@davismunck.com

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Applicant claims small entity status. See 37 CFR 1.27

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William A. Munck

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Complete if Known						
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Filing Date	December 9, 1999					
First Named Inventor	Michael S. Pasieka					
Examiner Name	Pramila Parthasarathy					
Art Unit	2136					
Attorney Docket No.	PHA23871 (PHIL06-23871)					

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Registration No.

(Attorney/Agent)

39,308

Telephone 972-628-3600

APR 2 6 2005

DOCKET NO. PHA23871

CLIENT NO. PHIL06-23871

**PATENT** 

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Michael S. Pasieka

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METHOD AND APPARATUS FOR REVOCATION LIST

**MANAGEMENT** 

Group No.:

2136

Examiner:

Pramila Parthasarathy

#### MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

### **APPEAL BRIEF**

The Appellant has appealed to the Board of Patent Appeals and Interferences from the decision of the Examiner dated November 19, 2004, finally rejecting Claims 1-20. The Appellant filed a Notice of Appeal on February 22, 2005. The Appellant respectfully submits this brief on appeal with the appropriate statutory fee.

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### **REAL PARTY IN INTEREST**

This application is currently owned by Philips Electronics North America Corporation as indicated by an assignment recorded on December 9, 1999 in the Assignment Records of the U.S. Patent and Trademark Office at Reel 010479, Frame 0361.

### RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this pending appeal.

### **STATUS OF CLAIMS**

Claims 1-20 have been rejected pursuant to a final Office Action dated November 19, 2004.

Claims 1-20 are presented for appeal. A copy of Claims 1-20 is provided in the Appendix.

### STATUS OF AMENDMENTS

No amendments were submitted and refused entry after issuance of the final Office Action dated November 19, 2004.

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### SUMMARY OF CLAIMED SUBJECT MATTER

Regarding Claim 1, a method for controlling access to information includes maintaining, for a given entity controlling access to the information, a contact list 300. (Application, Page 6, Lines 23-27; Page 11, Lines 4-14). The contact list 300 includes information identifying one or more other entities which have attempted to communicate with the given entity. (Application, Page 11, Lines 12-21). The method also includes utilizing the contact list 300 in conjunction with a revocation list 150 associated with the given entity to determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity. (Application, Page 12, Line 15 – Page 13, Line 27).

Regarding Claim 16, an apparatus 100 for controlling access to information includes a processor-based device for controlling access to the information. (*Application, Page 6, Lines 23-27; Page 7, Lines 16-21*). The processor-based device is operative to maintain a contact list 300, which includes information identifying one or more other entities which have attempted to communicate with the processor-based device. (*Application, Page 11, Lines 4-21*). The processor-based device is also operative to utilize the contact list 300 in conjunction with a revocation list 150 associated with the given entity (the processor-based device) to determine which of at least a subset of the one or more other entities are authorized to communicate with the processor-based device. (*Application, Page 12, Line 15 – Page 13, Line 27*).

Regarding Claim 17, an article of manufacture includes a machine-readable storage medium containing one or more software programs for use in controlling access to information. (Application, Page 15, Lines 3-14). The one or more software programs when executed implement the step of

maintaining, for a given entity controlling access to the information, a contact list 300. (Application, Page 6, Lines 23-27; Page 11, Lines 4-14). The contact list 300 includes information identifying one or more other entities which have attempted to communicate with the given entity. (Application, Page 11, Lines 12-21). The one or more software programs when executed also implement the step of utilizing the contact list 300 in conjunction with a revocation list 150 associated with the given entity to determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity. (Application, Page 12, Line 15 – Page 13, Line 27).

### **GROUNDS OF REJECTION**

- 1. Claims 1-10 and 12-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,745,574 to Muftic ("Muftic").
- 2. Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Muftic* in view of U.S. Patent No. 5,832,206 to De Jesus et al. ("*De Jesus*").

#### **ARGUMENT**

# I. GROUND OF REJECTION #1 (§ 102 REJECTION)

The rejection of Claims 1-10 and 12-20 under 35 U.S.C. § 102(b) is improper and should be withdrawn.

#### A. <u>OVERVIEW</u>

Claims 1-10 and 12-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,745,574 to Mufitc ("Muftic").

### B. <u>STANDARD</u>

A prior art reference anticipates a claimed invention under 35 U.S.C. § 102 only if every element of the claimed invention is identically shown in that single reference, arranged as they are in the claims. (MPEP § 2131; In re Bond, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. (MPEP § 2131; In re Donohue, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

# C. THE MUFTIC REFERENCE

Muftic recites a public key infrastructure for providing security in a computer system. (Abstract). The infrastructure includes a hierarchical certification system and a repository. (Col. 5, Lines 19-50). The repository stores information such as public key certificates and revocation lists.

(Col. 5, Lines 41-54). Each of the computers in the infrastructure is capable of storing, among other things, public key certificates and revocation lists. (Col. 6, Lines 33-38). Each revocation list includes, among other things, a list of revoked certificates. (Col. 13, Lines 3-9). In operation, the public key certificates may be obtained from the repository or the computers, and the public key certificates are verified against one or more of the revocation lists. (Col. 7, Lines 4-10).

# D. <u>CLAIMS 1-4 AND 13-17</u>

Claim 1 recites a method for controlling access to information, which includes the steps of:

maintaining, for a given entity controlling access to the information, a contact list comprising information identifying one or more other entities which have attempted to communicate with the given entity; and

utilizing the contact list in conjunction with a revocation list associated with the given entity to determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity.

The Examiner fails to establish that *Muftic* anticipates all elements of Claim 1. In particular, the Examiner fails to establish that *Muftic* anticipates a "contact list" associated with a "given entity," where the "contact list" contains information identifying "one or more other entities which have attempted to communicate with the given entity" as recited in Claim 1. The Examiner also fails to establish that *Muftic* anticipates utilizing "the contact list in conjunction with a revocation list" to "determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity" as recited in Claim 1.

The Examiner cites one portion of *Muftic* (column 5, lines 51-61) as anticipating

"maintaining ... a contact list comprising information identifying one or more other entities which have attempted to communicate with the given entity." (11/19/04 Office Action, Page 5, Section 3).

The Examiner cites two portions of Muftic (column 6, lines 29-38 and column 7, lines 4-20) as anticipating "utilizing the contact list in conjunction with a revocation list" to determine which of one or more other entities are "authorized to communicate with the given entity." (11/19/04 Office Action, Page 5, Section 3).

The cited portions of *Muftic* fail to anticipate the use of a "contact list" as recited in Claim 1. The first portion of *Muftic* cited by the Examiner merely recites that a repository may store, among other things, one or more "certificate revocation lists." (*Col. 5, Lines 51-61*). The second portion of *Muftic* cited by the Examiner similarly recites that a repository may store, among other things, one or more "certificate revocation lists." (*Col. 6, Lines 28-37*). The third portion of *Muftic* cited by the Examiner simply recites that certificates for computers are compared against one or more of the revocation lists to ensure the certificates are valid. (*Col. 7, Lines 4-20*).

First, the revocation lists of *Muftic* simply identify revoked public key certificates. The revocation lists do not in any way identify entities that "have attempted to communicate with" another entity. As a result, the cited portions of *Muftic* fail to anticipate a "contact list" that "identif[ies] one or more other entities which have attempted to communicate with [a] given entity" as recited in Claim 1.

Second, only the revocation lists of *Muftic* are used to determine the validity of public key certificates. The cited portions of *Muftic* contain no mention of using revocation lists and other types of lists (such as a "contact list") to determine the validity of public key certificates. While *Muftic* 

discloses using multiple revocation lists, the Examiner has not established that any of the revocation lists of *Muftic* anticipate the "contact list" recited in Claim 1. As a result, the cited portions of *Muftic* fail to anticipate utilizing a "contact list in conjunction with a revocation list" to "determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity" as recited in Claim 1.

The Examiner notes that *Muftic* discloses storing "data structures such as electronic addresses, electronic identities and/or public key certificates, certificate revocation lists and/or entity identification information (Column 6 lines 33-64 and Column 10 line 19 – Column 12 line 64)." (11/19/04 Office Action, Page 2, Last paragraph – Page 3, First paragraph).

The Examiner makes no attempt to establish that any of this information anticipates the "contact list" recited in Claim 1. For example, while the Examiner notes that "entity identification information" may be stored, the Examiner makes no attempt to show that the "entity identification information" in a first component of *Muftic* identifies the other components of *Muftic* that "have attempted to communicate with" the first component. Similarly, the two portions of *Muftic* lack any mention of a "contact list" associated with a "given entity" that contains information identifying "one or more other entities which have attempted to communicate with the given entity" as recited in Claim 1. In effect, the Examiner simply lists various features of *Muftic* and assumes that one or more of those features anticipates the "contact list" recited in Claim 1. However, the Examiner has not established that these portions of *Muftic* anticipate the "contact list" recited in Claim 1.

For these reasons, the Examiner fails to establish that *Muftic* anticipates all elements of Claim

1. For similar reasons, the Examiner fails to establish that *Muftic* anticipates all elements of Claims

16 and 17. As a result, the Examiner fails to establish that *Muftic* anticipates the Appellant's invention as recited in Claims 1, 16, and 17 (and their dependent claims).

Accordingly, the Appellant respectfully requests that the § 102 rejection of Claims 1-4 and 13-17 be withdrawn and that Claims 1-4 and 13-17 be passed to allowance.

### E. CLAIMS 5, 8-10, 12, 18, AND 19

Claims 5, 8-10, 12, 18, and 19 depend from Claims 1, 16, and 17. As shown above, Claims 1, 16, and 17 are patentable. As a result, Claims 5, 8-10, 12, 18, and 19 are patentable due to their dependence from allowable base claims.

Claims 5, 8-10, 12, 18, and 19 are also patentable in light of their own recitations. For example, Claim 5 recites the method of Claim 1, where the contact list includes:

a plurality of entries, each entry including at least an identifier of a particular one of the other entities and a corresponding revocation flag indicating whether authorization of the particular entity has been revoked.

The Examiner fails to establish that *Muftic* anticipates these elements of Claim 5.

The Examiner cites two portions of *Muftic* (column 5, lines 51-64 and column 6, lines 29-38) as anticipating these elements of Claim 5. The Examiner also states that *Muftic* "clearly teaches that the system stores information such as public key certificates, certificate revocation lists and registration information," that a method "generates a data structure containing the data items required for registration (self-signing)," and that "this information is stored either at the requesting computer process or at a common certificate repository." (11/19/04 Office Action, Page 3, Second paragraph).

Again, the Examiner simply lists various features of *Muftic* and assumes that one or more of those features anticipates Claim 5. The Examiner makes no attempt to establish that any of this information anticipates the "plurality of entries" recited in Claim 5. For example, while the Examiner states that "registration information" may be stored at some location, the Examiner makes no attempt to establish that this registration information includes a "plurality of entries," where each entry includes "at least an identifier" of a particular entity and a "corresponding revocation flag indicating whether authorization of the particular entity has been revoked."

While the Examiner has shown that *Muftic* uses revocation lists, the "plurality of entries" recited in Claim 5 form the "contact list" recited in Claim 1. The "contact list" identifies "one or more other entities which have attempted to communicate with [a] given entity." The Examiner has not shown that a first component in *Muftic* maintains a list identifying other components that have attempted to communicate with the first component, where the list includes "entries" each containing "at least an identifier" of a particular component and a "corresponding revocation flag" indicating whether authorization of the particular component has been revoked.

For these reasons, the Examiner fails to establish that *Muftic* anticipates all elements of Claim 5. For similar reasons, the Examiner fails to establish that *Muftic* anticipates all elements of Claims 18 and 19. As a result, the Examiner fails to establish that *Muftic* anticipates the Appellant's invention as recited in Claims 5, 18, and 19 (and their dependent claims).

Accordingly, the Appellant respectfully requests that the § 102 rejection of Claims 5, 8-10, 12, 18, and 19 be withdrawn and that Claims 5, 8-10, 12, 18, and 19 be passed to allowance.

F. CLAIMS 6, 7, AND 20

Claims 6, 7, and 20 depend from Claims 5 and 19, which depend from Claims 1 and 17. As

shown above, Claims 1, 5, 17, and 19 are patentable. As a result, Claims 6, 7, and 20 are patentable

due to their dependence from allowable claims.

Claims 6, 7, and 20 are also patentable in light of their own recitations. For example, Claim

6 recites the method of Claim 5 and further includes the step of:

updating the contact list after a modification of the revocation

list.

The Examiner fails to establish that *Muftic* anticipates these elements of Claim 6.

The Examiner cites one portion of *Muftic* (column 16, line 34 – column 17, line 22) as

anticipating these elements of Claim 6. However, the cited portion of Muftic lacks any mention of

updating a contact list "after a modification of" a revocation list. The cited portion of *Muftic* simply

recites that a revocation list is updated when a certificate is revoked (Col. 16, Lines 34-63) and that a

revocation list may be retrieved and provided to a component in the system. (Col. 16, Line 64 – Col.

17, Line 22). Nothing here indicates that a separate "contact list" is updated after the revocation list

is updated.

The Examiner has only shown that *Muftic* updates a revocation list when a certificate is

revoked. The Examiner has not shown that Muftic updates a separate "contact list" after a

modification is made to the revocation list. As a result, the Examiner fails to establish that Muftic

anticipates updating a contact list "after a modification of" a revocation list as recited in Claim 6.

For these reasons, the Examiner fails to establish that Muftic anticipates all elements of Claim

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- 6. For similar reasons, the Examiner fails to establish that Muftic anticipates all elements of Claim
- 20. As a result, the Examiner fails to establish that *Muftic* anticipates the Appellant's invention as recited in Claims 6 and 20 (and their dependent claims).

Accordingly, the Appellant respectfully requests that the § 102 rejection of Claims 6, 7, and 20 be withdrawn and that Claims 6, 7, and 20 be passed to allowance.

The rejection of Claim 11 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

A. <u>OVERVIEW</u>

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Muftic* in view of U.S. Patent No. 5,832,206 to De Jesus et al. ("*De Jesus*").

B. STANDARD

In ex parte examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. (MPEP § 2142; In re Fritch, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992)). The initial burden of establishing a prima facie basis to deny patentability to a claimed invention is always upon the Patent Office. (MPEP § 2142; In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984)). Only when a prima facie case of obviousness is established does the burden shift to the Appellant to produce evidence of nonobviousness. (MPEP § 2142; In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993)). If the Patent Office does not produce a prima facie case of unpatentability, then without more the Appellant is entitled to grant of a patent. (In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Grabiak, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985)).

A prima facie case of obviousness is established when the teachings of the prior art itself

suggest the claimed subject matter to a person of ordinary skill in the art. (In re Bell, 991 F.2d 781,

783, 26 U.S.P.O.2d 1529, 1531 (Fed. Cir. 1993)). To establish a prima facie case of obviousness,

three basic criteria must be met. First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to

modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or

suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the

reasonable expectation of success must both be found in the prior art, and not based on the

Appellant's disclosure. (MPEP § 2142).

C. CLAIM 11

Claim 11 depends from Claim 5, which depends from Claim 1. As noted above, Claims 1

and 5 are patentable. As a result, Claim 11 is patentable due to its dependence from an allowable

claim.

Accordingly, the Appellant respectfully requests that the § 103 rejection of Claim 11 be

withdrawn and that Claim 11 be passed to allowance.

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### **SUMMARY**

The Appellant has demonstrated that the present invention as claimed is clearly distinguishable over the prior art cited of record. Therefore, the Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

The Appellant has enclosed the appropriate fee to cover the cost of this APPEAL BRIEF. The Appellant does not believe that any additional fees are due. However, the Commissioner is hereby authorized to charge any additional fees (including any extension of time fees) or credit any overpayments to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: <u>April 22, 2005</u>

William A. Munck

Registration No. 39,308

P.O. Drawer 800889 Dallas, Texas 75380 (972) 628-3600 (main number)

(972) 628-3616 (fax)

E-mail: wmunck@davismunck.com



### **APPENDIX**

#### PENDING CLAIMS

1. A method for controlling access to information, the method comprising the steps of: maintaining, for a given entity controlling access to the information, a contact list comprising information identifying one or more other entities which have attempted to communicate with the given entity; and

utilizing the contact list in conjunction with a revocation list associated with the given entity to determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity.

- 2. The method of claim 1 wherein the given entity and at least a subset of the one or more other entities each comprise a consumer electronics device.
- 3. The method of claim 1 wherein the maintaining and utilizing steps are implemented in an access control system associated with the given entity.
- 4. The method of claim 3 wherein the revocation list comprises a local revocation list stored in the access control system.
- 5. The method of claim 1 wherein the contact list comprises a plurality of entries, each entry including at least an identifier of a particular one of the other entities and a corresponding revocation flag indicating whether authorization of the particular entity has been revoked.
- 6. The method of claim 5 further including the step of updating the contact list after a modification of the revocation list.
- 7. The method of claim 6 wherein the step of updating the contact list after a modification of the revocation list further includes the steps of:

identifying all of the entities in the contact list that do not have their corresponding revocation flag set; and

determining, for each of the entities identified as being on the contact list but not having a set revocation flag, whether that entity is on the modified local revocation list, and if such an entity is determined to be on the modified local revocation list, setting its revocation flag in the contact list.

8. The method of claim 5 further including the step of updating the contact list if a new entity not already included in the contact list attempts to communicate with the given entity.

9. The method of claim 8 wherein the step of updating the contact list if a new entity not already included in the contact list attempts to communicate with the given entity further includes the steps of:

P 4 6 5

storing in the contact list an entity identifier for the new entity if there is sufficient space available in the contact list; and

determining if the new entity is on the revocation list, and if it is, setting the corresponding revocation flag for the new entity in the contact list.

- 10. The method of claim 9 further including the step of selecting a particular entry of the contact list for removal from the contact list if there is not sufficient space available in the contact list for the new entity.
- 11. The method of claim 10 wherein the selecting step is implemented using a random or pseudo-random selection process.
- 12. The method of claim 5 wherein the contact list is configured such that the revocation flag of a particular entry may not be cleared once that flag has been set as long as that entry remains in the contact list.
- 13. The method of claim 1 further including the step of periodically generating a digital signature for at least a portion of the contact list.
- 14. The method of claim 13 further including the step of updating the digital signature each time the contact list is updated.
- 15. The method of claim 1 wherein each of at least a subset of the other entities stores a contact list having entries corresponding to entities which have attempted to communicate with those other entities.
- 16. An apparatus for controlling access to information, the apparatus comprising: a processor-based device for controlling access to the information, wherein the processor-based device is operative to maintain a contact list comprising information identifying one or more other entities which have attempted to communicate with the processor-based device, and to utilize the contact list in conjunction with a revocation list associated with the given entity to determine which of at least a subset of the one or more other entities are authorized to communicate with the processor-based device.

17. An article of manufacture comprising a machine-readable storage medium containing one or more software programs for use in controlling access to information, wherein the programs when executed implement the steps of:

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maintaining, for a given entity controlling access to the information, a contact list comprising information identifying one or more other entities which have attempted to communicate with the given entity; and

utilizing the contact list in conjunction with a revocation list associated with the given entity to determine which of at least a subset of the one or more other entities are authorized to communicate with the given entity.

- 18. The apparatus of Claim 16, wherein the contact list comprises a plurality of entries, each entry including at least an identifier of a particular one of the other entities and a corresponding revocation flag indicating whether authorization of the particular entity has been revoked.
- 19. The article of manufacture of Claim 17, wherein the contact list comprises a plurality of entries, each entry including at least an identifier of a particular one of the other entities and a corresponding revocation flag indicating whether authorization of the particular entity has been revoked.
- 20. The article of manufacture of Claim 19, wherein the programs when executed implement the further step of updating the contact list after a modification of the revocation list.